

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of

SBC Biennial Audit Report

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CC Docket No. 96-150

WORLDCOM COMMENTS

WorldCom, Inc. (WorldCom) hereby submits its comments on the SBC Communications (SBC) Section 272 Compliance Biennial Audit Report.

As was the case with the Verizon Section 272 audit, the SBC Section 272 audit procedures were in many respects insufficient to allow the Commission to evaluate SBC's compliance with Section 272. First, and most importantly, the auditors did not obtain information that is necessary to evaluate SBC's compliance with section 272(e)(1), which requires that a Bell operating company fulfill any requests from an unaffiliated entity "within a period no longer than the period in which it provides such telephone exchange service and exchange access to itself or to its affiliates."¹ Even though Section 272(e)(1) refers to both services provided by the BOC to "itself" and to its "affiliates," the auditors obtained only installation and repair interval data for services provided by the SBC BOCs to "affiliates." The auditors failed to obtain installation and repair interval for services provided by an SBC BOC to "itself," i.e., special access services provided by the SBC BOCs to "retail" customers.²

¹ 47 U.S.C. § 272(e)(1).

² The business rules governing the data collected by SBC and provided to the auditors state explicitly that

Notably, SBC's failure to collect complete installation and repair interval information for services provided by the SBC BOC "to itself," i.e., including those services provided at retail, is contrary to SBC's commitments in its Section 271 applications. The sample information disclosure format provided by SBC in those applications, and relied upon by the Commission in approving those applications, promised that SBC would provide installation and repair interval information for services provided to the "BOC/BOC affiliate,"³ with no indication that "retail" services would be excluded. And, when WorldCom requested and obtained Section 272(e)(1)-related service interval information from SBC in 2001,⁴ the business rules that SBC provided to WorldCom in conjunction with that request gave no indication that retail sales were excluded from the data.⁵

Investigation of installation and repair intervals for special access services provided by the BOC to retail customers is not only required by the plain language of section 272(e)(1), but is directly relevant to competition in the interLATA market. As is clear from the audit report, SBC's long distance affiliates have no direct contact with the customer, i.e., SBC's long distance affiliates do not actually market and sell interLATA services.⁶ Rather, the SBC long distance affiliates' services are marketed and sold by the SBC BOC on behalf of the affiliates. In light of the fact that the SBC BOC, and not the section 272 affiliate, is the point of contact for the customer, it is reasonable to assume that the SBC BOC may sell those special access circuits used in conjunction with the affiliates' interLATA services

"[r]etail customers of SBC are not part of this reporting process." See, e.g., Attachment A-6 at 9.

³ SWBT Texas Section 271 application, Rehmer Affidavit, Attachment D.

⁴ Letter from Jeffrey Ulm, Vice President, SBC, to Mary L. Brown, Vice President, WorldCom, April 13, 2001.

⁵ The business rules provided to WorldCom are identical in every respect to those provided to the auditors, except that the business rules provided to the auditors disclose, for the first time, that retail sales are not included in the data.

⁶ Appendix A at 29, Objective VII, item 9 ("SBC has represented that the section 272 affiliates do not have a

directly to the customer on a retail basis, rather than “wholesaling” special access circuits to the section 272 affiliate. A practice of selling special access used in conjunction with SBC interLATA services on a retail basis, rather than to the section 272 affiliate on a wholesale basis, would explain the “extremely low volume of affiliate orders”⁷ apparently reflected in the installation and repair interval data that SBC provided to the auditors.

If it is SBC’s practice for the SBC BOC to sell special access circuits to SBC’s interLATA customers “at retail,” rather than at wholesale to the interLATA affiliate, then preferential treatment in the provisioning of such retail sales would have the same anticompetitive impact as preferential treatment in the provisioning of wholesale sales to the affiliate. And, not only do the SBC BOCs have a clear incentive to engage in such discriminatory behavior, at least one state commission has found a BOC to “treat[] other carriers less favorably than its retail customers.”⁸

Because the auditors failed to obtain data concerning provisioning and repair intervals for retail sales, the Commission does not have sufficient information to determine whether SBC has complied with the requirements of section 272(e)(1). Consequently, the Commission should require a re-audit of SBC, focusing in part on SBC’s retail provisioning performance during the period covered by the audit. At a minimum, the Commission should investigate the extent to which it was SBC’s practice, when an SBC BOC marketed and sold interLATA services on behalf of the SBC section 272 affiliate, for the BOC to sell the special access component of the interexchange service directly to the customer on a retail

separate sales force”)

⁷ Attachment B-2 at 8, Objective VIII, Procedure 3.

⁸ New York Public Service Commission, Opinion and Order Modifying Special Services Guidelines for Verizon New York, Inc., Conforming Tariff and Requiring Additional Performance Reporting, Case Nos. 00-C-2051, 92-C-0665 at 7 (June 15, 2001).

basis (and thus exclude that sale from the installation and repair interval data provided to the auditors), rather than to the section 272 affiliate on a wholesale basis.

The audit procedures were similarly insufficient to determine whether SBC discriminated in the processing of PIC changes. In particular, the audit procedures were insufficient to permit the Commission to determine whether SBC discriminated in the implementation and lifting of PIC freezes, even though the Commission has recognized that the BOCs' control over PIC freezes gives them a significant opportunity to discriminate against their competitors.⁹ Not only do the business rules governing the PIC change interval data collected by SBC and provided to the auditors explicitly exclude from the data those lines that are subject to "PIC freezes,"¹⁰ but the auditors did not employ any alternate procedures to examine PIC changes for such lines (which represent a significant and growing proportion of lines). In order to assess SBC's compliance with Section 272, the auditors should, at a minimum, have performed procedures that would permit the Commission to compare the process by which SBC lifts PIC freezes for customers seeking to switch to SBC long distance to the process by which SBC lifts PIC freezes for customers seeking to switch to other long distance carriers.

In light of the deficiencies in audit procedures identified herein, the Commission should immediately reaudit SBC and, in addition, should ensure that the procedures employed in future audits correct those deficiencies.

Respectfully submitted,
WORLDCOM, INC.

⁹ Implementation of the Subscriber Carrier Selection Changes Provisions of the Telecommunications Act of 1996, Second Report and Order and Further Notice of Proposed Rulemaking, 14 FCC Rcd 1508, 1579-1580 (1998).

¹⁰ Attachment A-6 at 5, Service Category 4, "Business Rules."

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